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PARTNER



Gary Lucks JD, CPEA is the principal environmental attorney with deep expertise in environmental, health, and safety (EHS) law, legislative affairs, and sustainability strategy. He has over 37 years of experience advising Fortune 500 clients in most industry sectors.

He is a licensed attorney, a scientist, and a Certified Professional Environmental Auditor (CPEA) who has completed or overseen close to 500 major EHS compliance audits across the country and overseas. He also specializes environmental compliance counseling, environmental auditing, environmental management systems (EMS), permitting, and training.

He wrote environmental policy briefing papers for Governor Newsom, Senator Feinstein, Senator Steinberg, State Insurance Commissioner Dave Jones, and Marin County Supervisor Charles McGlashan.

He serves on the California Lawyer’s Association Environmental Law Section’s Executive Committee leading environmental legislation, sustainability, and education committees. He also served as an Advisor to the Bay Area Air Quality Management District and co-founded the Sustainable Earth Initiative—a non-profit dedicated to helping public agencies improve environmental performance and advance sustainability initiatives.

Mr. Lucks has published extensively on environmental law, legislation, and policy. He co-wrote a book on environmental law ([California Environmental Law and Policy: A Practical Guide](#) which is used in law schools, colleges, by practitioners, and which has been cited in legal opinions). He also wrote the Environmental Auditing Chapter in the [California Environmental Law and Land Use Practice](#). He has been a regular contributor to the [California Environmental Law Reporter](#).

Disclaimer: This presentation is intended for informational purposes only. Content may not cover all relevant laws. Before acting on information contained in this presentation, the implications of the law should be independently evaluated considering the unique factual circumstances of the potentially affected facility, party, or entity.

REGISTRATIONS & CERTIFICATIONS

- Certified Professional Environmental Auditor (CPEA), 2005
- California State Bar J.D., 1985
- California Environmental Assessor (REA I), 1993

EDUCATION

- University of the Pacific, McGeorge School of Law
- Tulane University (Cum Laude) B.S., Biology & Environmental Sciences

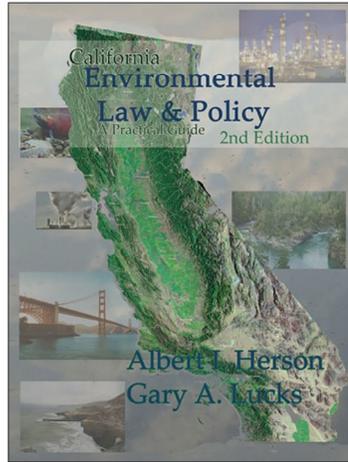


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Publications



Environmental Law NEWS

A Publication of the Environmental Law Section of California Lawyers Association for Environmental, Natural Resources, Energy and Land Use Attorneys

THE 2021 ENVIRONMENTAL LEGISLATIVE UPDATE: A RETURN TO NORMALCY



Written by Gary A. Lucks

INTRODUCTION

As the 2021 legislative session began, the Democratic-controlled California legislature welcomed a more politically aligned federal administration and a more environmentally friendly U.S. Environmental Protection Agency. California's 2021 legislative session was characterized by a return to a level of normalcy, setting aside the unusual and terse effort to recall Governor Newsom. Governor Newsom's responsibility went back to the challenge of the year: the pandemic and another drought fire season.

The interim quarter that preceded the California legislature during the last legislative session gave way to a more typical legislative session in 2021, with a total of 2,367 bills introduced and 834 landing on the Governor's desk, most as bills as the prior legislative session. The governor approved 87% of the environmental bills, including major reform at the Department of Toxic Substances Control (DTSC), significant modifications to the hazardous waste generator requirements, reorganizing the program to collect necessary-containing the necessary and funding for public-funded substances (PFA) research, and "truth in advertising" relating to green claims. The governor additionally signed a package of

YIMBY (Yes in My Back Yard) bills making it easier to up zone land uses to generate more housing in California. Finally, the legislature delivered one law designed to advance offshore wind (OWF), electrically off-road engine equipment, electric penalties for health and safety violations, streamline local permitting of electric vehicle charging infrastructure, and allocate water agencies to capture and treat stormwater. Except for budget-related agency bills that passed by a supermajority which took effect on the date of signing, the enacted bills became effective on January 1, 2022.

REVIEW OF LEGISLATION

HAZARDOUS WASTE

For years, an unaffiliated DTSC has faced criticism from the non-governmental organization (NGO) community, claiming it was too closely tied to industry and failed to protect the public from exposure to hazardous materials and waste. Conversely, the regulated community has alleged that DTSC has been overly strict and burdensome, and responsible for permit backlog for treatment, storage and disposal facilities (TSDF).

In an attempt to reform the agency, the legislature created an independent review panel which, in 2018, completed a three-year



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The Trump Administration's Legacy



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Where we are Now?



1. **A nuanced, partial retreat pivoting to a wholesale reversal**
2. **Federal Regulatory Drivers:** Remained largely intact
3. **EPA Staff and funding:** Still largely intact
4. **EPA Morale:** Suffering at the federal level
5. **Enforcement:**
 1. **Federal:** Relaxed but Yates Memo and still relatively heavy enforcement in targeted OECA areas
 2. **State:** Blue and Green States: Robust enforcement
 3. **NGOs:** Winning 95% of their cases
6. **Courts:** Largely served as a backstop

Few Significant Environmental Regulatory Roll backs

Promised Regulatory Rollbacks

- **Climate, Air Quality & Energy:**

- Clean Power Plan/Affordable Clean Energy Rule
- Café Standards/Clean Air Act Waiver
- Methane standard for oil and gas
- Energy Efficiency
- POTW Air Toxics (NESHAP) Rule



- **Water:**

- Clean Water Act jurisdiction
- Offshore Drilling



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Promised Regulatory Rollbacks

- **Hazardous Materials/Waste:**

- Risk Management Plans
- Coal Ash rules
- Formaldehyde Emissions (Wood products)



- **"NextGen" Enforcement**

- **Endangered Species Act**



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Reality: The Trump Administration Is Reversing 100 Environmental Rules. Here's the Full List

	Completed	In progress	Total
Air pollution and emissions	19	8	27
Drilling and extraction	12	8	20
Infrastructure and planning	11	1	12
Animals	9	2	11
Toxic substances and safety	6	2	8
Water pollution	4	7	11
Other	5	6	11
All	66	34	100

<https://www.nytimes.com/interactive/2020/climate/trump-environment-rollbacks.html?smid=fb-nytimes&smtyp=cur>

Repealed Trump Era Rules

- ❖ **Methane rule:** Congress repealed Trump methane rule (Congressional Review Act), thus rescinding Obama rule it replaced
- ❖ **Tailpipe Emissions:**
 - Strengthening vehicle GHG standards for model years 2023-2026
 - Restoration of CA's CAA waiver of federal preemption for auto standards
- ❖ **EPA Inspections:** EPA rescinded Trump-era rule governing EPA civil inspection practices limiting the agency's flexibility and discretion on case-by-case inspection scenarios

Repealing Trump Era Rules In Process

- ❖ **Mercury & Air Toxics Standards for Power Plants:** restoring Obama’s “appropriate & necessary” finding underlying the standards
- ❖ **Controversial Clean Air Act deregulatory guidance policies**
 - i.e., Returning to EPA’s ability to project facilities’ potential future air emissions to trigger NSR instead of deferring to company’s own assessment on applicability
- ❖ **SEPs:** DOJ stalled in revoking Trump-era rule banning SEPs in settlements

Trump Retained Fine Particulate NAAQS

-
- Trump EPA retained fine particulate matter (PM 2.5) rule (12 micrograms/M3)
 - Despite EPA’s public health experts who say it contributes to 10s of thousands of premature deaths annually. EPA staff is split on this final rule
 - NGOs, seeking a more health protective standard, will sue alleging the rule allows tens of thousands of preventable premature deaths annually

NEPA Streamlining Rule Rescinded

- Biden Executive Order rescinded NEPA guidance designed to:
- Supersede longstanding court precedent
- Would have established separate tests to determine if a federal action is “major” & whether it has a significant environmental impact
- “Environmental effect” definition would have dropped explicit requirements to consider “indirect” and “cumulative” effects
- Could have resulted in avoiding robust climate reviews.
- CEQ issued replacement regulations

NEPA Streamlining Rule

- Sets hard deadlines for completion of:
 - EIS: 2 year
 - EA: 1 year
- Establishes categories of projects not requiring EAs
- NGOS & 54 law professors allege rule will:
 - “Narrow the range of impacts & alternatives agencies consider”
 - Make it harder to challenge flawed NEPA analyses in court.”
 - Unintended benefit of reaching net-zero carbon economy by 2050 by speeding renewable energy & low carbon projects & other green infrastructure

Cumulative GHG Review Required

- 10th Circuit Ct. of Appeals: *Dine Citizens Against Ruining Our Environment v Debra Haaland*
- Lead agencies must address cumulative GHG impacts of approving oil and gas drilling and using a GHG budget
- BLM violated NEPA by not accounting for the cumulative impacts of GHGS & Toxic air pollutants when it approved 199 permit applications for leasing or drilling

Stimulus & HFC Cuts

Phases out HFCs:

- EPA authorized to cut product & use of HFCs by 85% over 15 years
- Expected to save as much as half degree Celsius of warming by end of 2100
- \$35 billion for renewable energy including tax credit extensions for solar, wind, and energy storage (\$4B), energy efficiency products, electric grid upgrades, sustainable transportation (\$2.6B), carbon capture research (\$6B), \$1.7 B for low-income families to install renewable energy, nuclear (\$11B)
- Reauthorizes EPA program to cut diesel engine emissions
- DOE: Must prioritize funding research with 100% “clean, renewable, or zero-emission energy sources”

EU struck deal to Cap Super-warming F-gases

- EU finalized tentative deal on limiting the use in fridges and air conditioners of fluorinated gases that have a global warming potential thousands of times greater than carbon dioxide
- Introduce a cap to achieve a 79% reduction by 2030 on hydrofluorocarbons (HFCs)
- Includes bans on the use of HFCs in new equipment in some business sectors by 2022 and prevent their use for servicing and maintenance of old equipment
- Senate ratified global pact to curb HFCs

Water Cyber Security Initiative

- Biden Administration Initiative's industrial control system includes wastewater and drinking water systems underway
 - ❖ Increased monitoring
 - ❖ Tougher access
 - ❖ Improved planning & mitigation
 - ❖ Additional safety controls

PFAS Policies

- Drinking water limits (using emergency powers to establish)
- Drinking water of ~110 M Americans may be contaminated by PFAS (per & polyfluoroalkyl substances)
- Setting PFAS Superfund hazardous substances designation
- Prioritizing substitutes through procurement
- Accelerating toxicity studies
- List as a CWA toxic
- FAA covering 100% of the costs of aqueous film forming foam (AFFF) input-based testing equipment at airports

CFATS

- Securing Chemical Facilities from Terrorist Attacks Act of 2014 (“the CFATS Act of 2014”)
- Extended through 2023 via Public Law 116 – 15
- Recodifies and reauthorizes the CFATS program
- **Interim final rule:** addressing security for high-risk chemical facilities in possession of specific quantities of specific chemicals of interest
- Chemical Sector Coordinating Council urging DHS to swiftly reauthorize in light continued cyber security risks

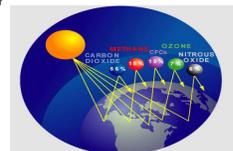
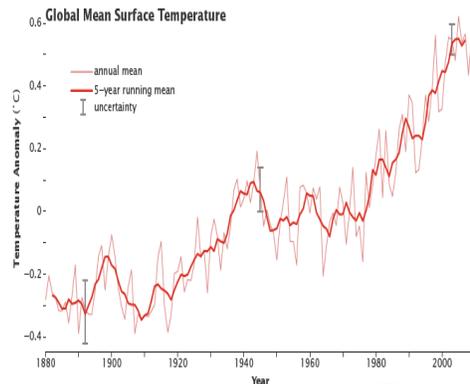


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2020: Warmest Year on Record

Tied with 2016

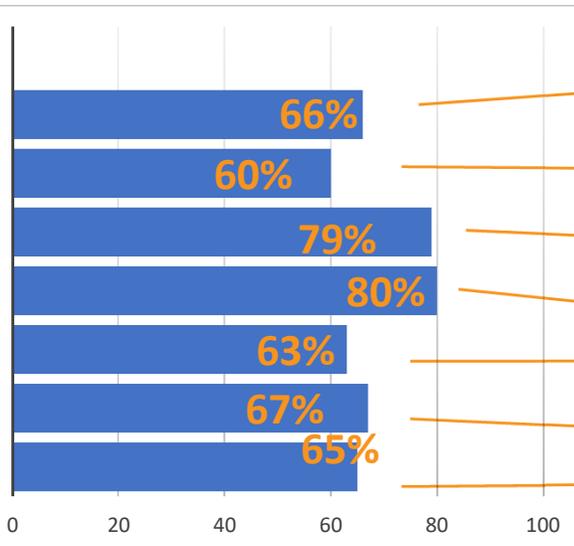
- 20 of 21 warmest years have occurred since 2000
- 10 hottest years occurred in past 20
- 2018: Warmest for Oceans
- 2015 – 2018: Four warmest years since records began in 1850
- Source: NASA
- CO2 levels reached 4 Million-Year highest level at 421 PPM in May 2022



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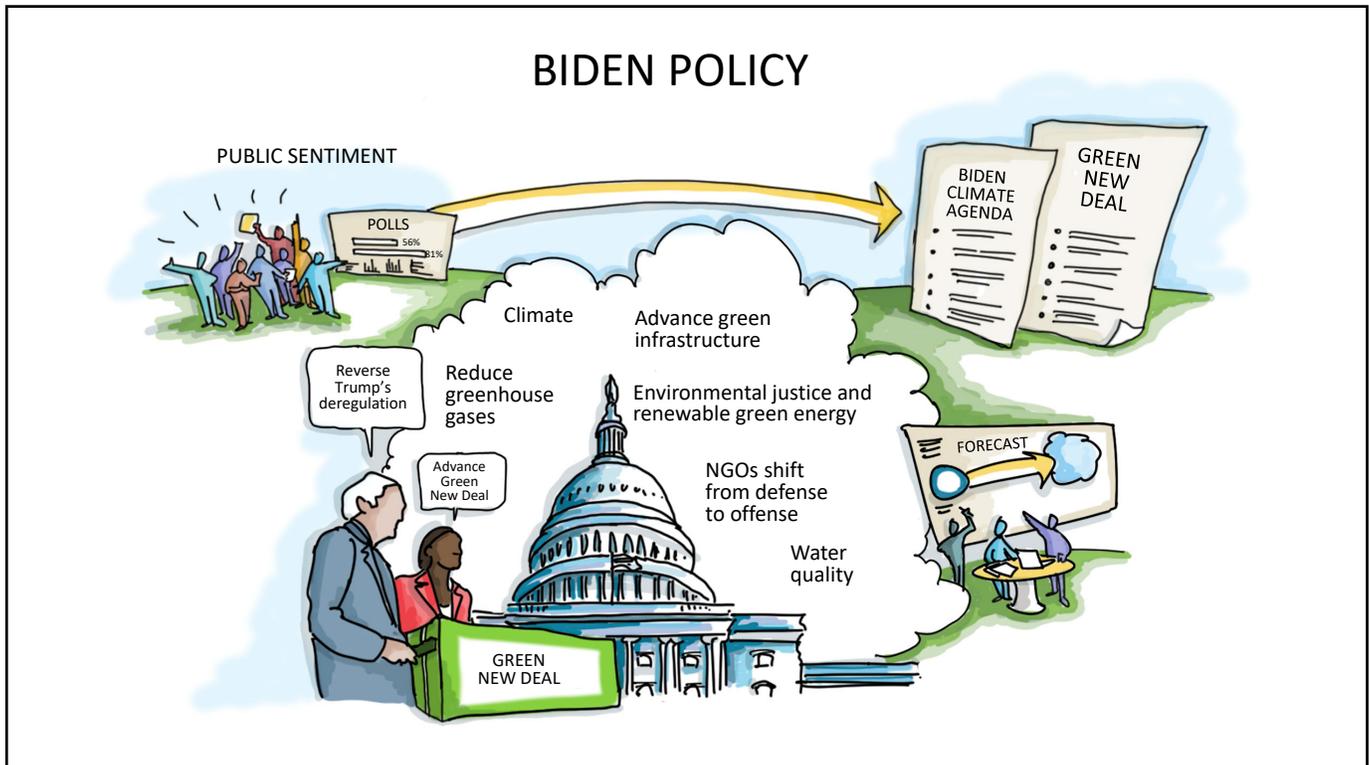
Environmental & Climate Polls



- Federal government should act more aggressively to combat climate change (Pew Research Center June 2020)
- Climate change is a major threat (Pew Research Center June 2020)
- Country should prioritize alternative forms of energy (Pew Research Center June 2020)
- Human activity is fueling climate change
Source: 2019 Washington Post & Kaiser Family Foundation
- The Green New Deal is a good idea to address climate change (NPR/PBS 2019)
- The US needs to do more to address climate change (Quinnipiac 2019)
- Protecting the environment is a priority even at the risk of curbing economic growth (Gallup 2019)

The Green New Deal & Biden





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The Green New Deal-- Non-binding Resolution

- **Renewable Energy:** Transition to 100% green, renewable energy & zero-emissions power by 2030 (no nuclear or natural gas) & building/upgrading to “smart” power grids
- **Green Transportation:** EV infrastructure, public transport (including high-speed rail)
- **Energy-efficient Buildings:** Upgrade all existing buildings to be energy-efficient
- **GHG Reduction:** Cuts carbon emissions to meet Paris Agreement’s most ambitious climate goal
- **Eliminate fossil fuels:** Reduce air quality pollution & GHG emissions “as much as technologically feasible”
- **Green Jobs:** Guarantee full employment generating up to 20 million new, living-wage jobs
- **Climate Resiliency**

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Biden Climate & Energy Priorities

- **Environmental Justice:**
 - New Environmental Justice Advisory Council
 - EJ and “equitable opportunity” in a clean energy future
- **Climate:** Urging congressional enactment of GHG reduction “enforcement mechanism” with initial target no later than 2025 with commitments to:
 - Energy efficient buildings
 - Achieve net-zero GHG emissions by 2050
 - Eliminate fossil fuel emissions from power sector by 2035
 - Green Infrastructure
- **Vehicular Emissions:** Positioning auto sector to “win the 21st century”
- **Power:** Achieving “carbon pollution free” power sector by 2035

Biden Climate Priorities

- ❖ **OECA & Climate:** Consent decrees including climate resilience & Mitigation
- ❖ **Vehicular Emissions:** Positioning auto sector to “win the 21st century”
- ❖ **Power:** Achieving “carbon pollution free” power sector by 2035

Biden EJ Focus

❖ “Justice 40”: 40% of federal funding to benefit underserved & overburdened communities:

- Office of Environmental Justice in:
 - DOJ AND
 - Dept. of Health & Human Services

❖ OECA EJ Focus:

- Increased inspections, early relief, protective remedies, increased engagement & enforcement
- Issued several Emergency Orders under SDWA & Clean Air Act

Biden Agenda vs. Green New Deal

GND	Biden	
Net-zero GHG Emissions by 2030	2035	Conservation focus on agriculture industry <ul style="list-style-type: none"> <li style="width: 50%;">• Emphasizes green infrastructure <li style="width: 50%;">• EJ <li style="width: 50%;">• Energy efficiency in buildings & houses <li style="width: 50%;">• Clean energy <li style="width: 50%;">• Promoting production of EVs <li style="width: 50%;">• Conservation in agriculture & industry
Abolish fracking?	Not abolishing fracking	Market forces: oil/gas companies are transitioning to renewables adding pressure to replace jobs with green jobs
Carbon Free Electricity	Yes \$2 trillion pledge	40% earmarked for legacy pollution & investments in disadvantaged communities
Building energy efficiency	Yes	
Green Transportation	Promoting EVs	Could see climate friendly policies in infrastructure & stimulus bills
Meet Paris Agreements limit to below 2C	Rejoined Paris Climate Agreement	

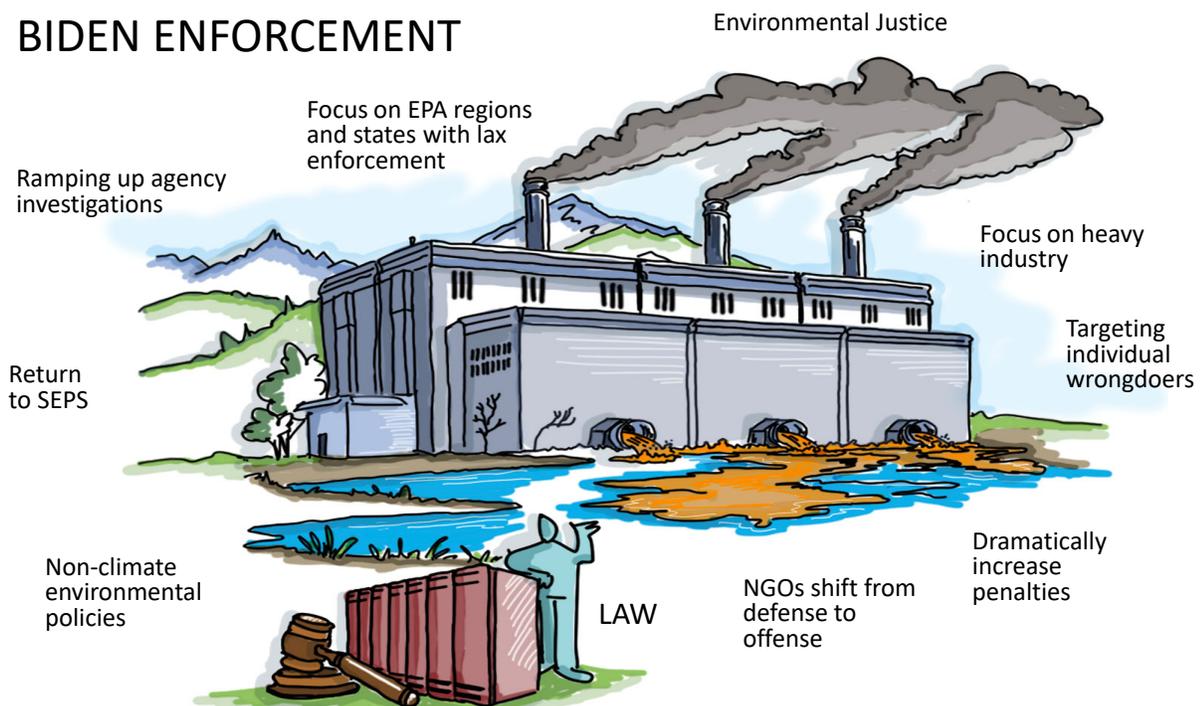
Personnel is Policy

- **White House Office of Climate Policy:** John Podesta replaced Gina McCarthy in coordinating domestic policy
- **International Climate Envoy:** John Kerry
- **Dept. of Energy:** Jennifer Granholm
- **DOT:** Pete Buttigieg focusing on green infrastructure
- **EPA:** Michael Regan
- **CEQ:** Brenda Mallory: Experienced former environmental lawyer who spent 15 years at EPA
- **Dept. of Interior:** Deb Haaland expected to curtail oil and gas leasing on federal lands

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BIDEN ENFORCEMENT



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Environmental Civil Penalties Rise Significantly Federal Civil Penalties Inflation Adjustment Improvement Act of 2015

EPA Civil Penalties rose with inflation in 2020

Per day / Per violation Penalties:

- RCRA: \$102,638
- Clean Air Act: \$102,638
- Clean Water Act: \$56,460
- EPCRA: \$59,017
- CERCLA: \$59,017
- SDWA: \$50.018
- FIFRA: \$20,528

Scaling up Enforcement

- Returning to Ruckelhaus “fishbowl memo” that EPA serves as a “gorilla in the closet” to compel civil & criminal compliance through stringent oversight of state programs
- Rescinded DOJ EO banning SEPs in enforcement settlements
- Shift from National Compliance Initiatives to Enforcement focus
- Increased focus on states considered to be lax on enforcement
- Increased focus on heavy industry
- Reversing centralized enforcement, returning delegated authority to regions

DOJ Prosecution Focus

- **DOJ Environment Natural Resources Division prioritizing:**
 - ❖ **Corporate Environmental Crimes including:**
 - Violations of environmental laws and fraud, conspiracy and obstruction of justice
 - “Due care” throughout the supply chain.“ If supplies originate from a criminally tainted source, [DOJ] ‘ will consider the criminal responsibility of all parts of that supply chain.’
 - ❖ **“Sector-wide” civil enforcement:** If all or most of an entire sector is out-of-compliance, DOJ will focus on individual facilities in that sector
 - ❖ **Critical Enforcement nexus:** Focusing on climate and violations of GHG rules and cases protecting carbon sinks (e.g., illegal logging) and protecting renewable energy programs from fraud
 - ❖ **EJ:** Increased inspections, early relief for communities near non-compliant facilities, & increased engagement with EJ communities.

Individual Liability for Corporate Wrongdoing

Focus on prosecuting Corporate fraud & other misconduct as deterrence

Yates Memo Guidance:

- Corporate Cooperation Credit: corporations must provide all relevant facts to DOJ regarding individual responsible for misconduct
- Investigations: focus on individual from inception of investigation
- DOJ will not release culpable individuals for liability when resolving corporate matter
- DOJ attorneys should not resolve corporate matter without clear plan to resolve related individual cases
- Civil attorneys should consistently focus on individuals AND the company regardless of individual’s ability to pay

New Self-Disclosure Policy for Corporate Crimes

- US Attorney's Office set out new standards defining whether a voluntary self-disclosure of criminal misconduct
- Company considered to have made a voluntary disclosure if it becomes aware of misconduct and then publicly reports it to DOJ in a timely fashion and prior to an imminent threat of disclosure of government information
- **Benefit:** May be exempt from criminal penalty or fined below 50% of the fine range If:
 - 1. Misconduct poses grave threat to national security, public health or environment
 - 2. It is deeply pervasive throughout the company
 - 3 it involved the current executive management of the company

California Environmental Regulatory Developments & Enforcement

California's Preoccupied by Climate, Drought & Wildfire

- **~90% of likely CA Voters:** Environment is important
- **Governor Sentiments:**
 - **45% of likely CA Voters:** Environment is Very Important in voting for Governor
 - **59% of likely CA Voters** approve of Newsom's handling the environment
- **Top 2 issues:**
 - #1: Water supply & Drought: 68%
 - #2: Wildfires & Climate
- **Climate & Drought:** 77% say climate change has contributed to current drought
- **Climate change effects are here:** 69%:
 - 80%: climate change is very or somewhat serious threat to future economy & quality of life
- **Oceans/Beaches:** 58% oceans and beaches are very important to California's future economy & quality of life

Public Policy Institute of CA Poll (7/22)

Democratic Dominance

- Historic ultra-supermajority in both houses with a Democratic governor
- Both houses led by members who have a deep interest in environmental issues



GOVERNOR

Gavin Newsom



Party: Democrat
 Years in office: 3

2021 Score: **82%**

85%
 Lifetime Score

Past Scores

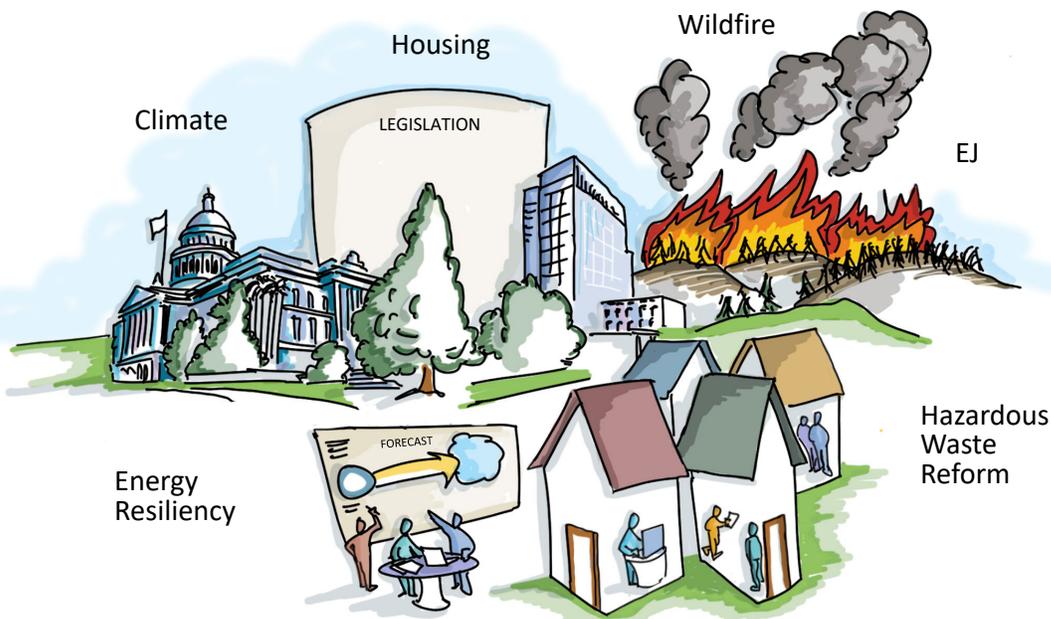
87%
 2020

85%
 2019

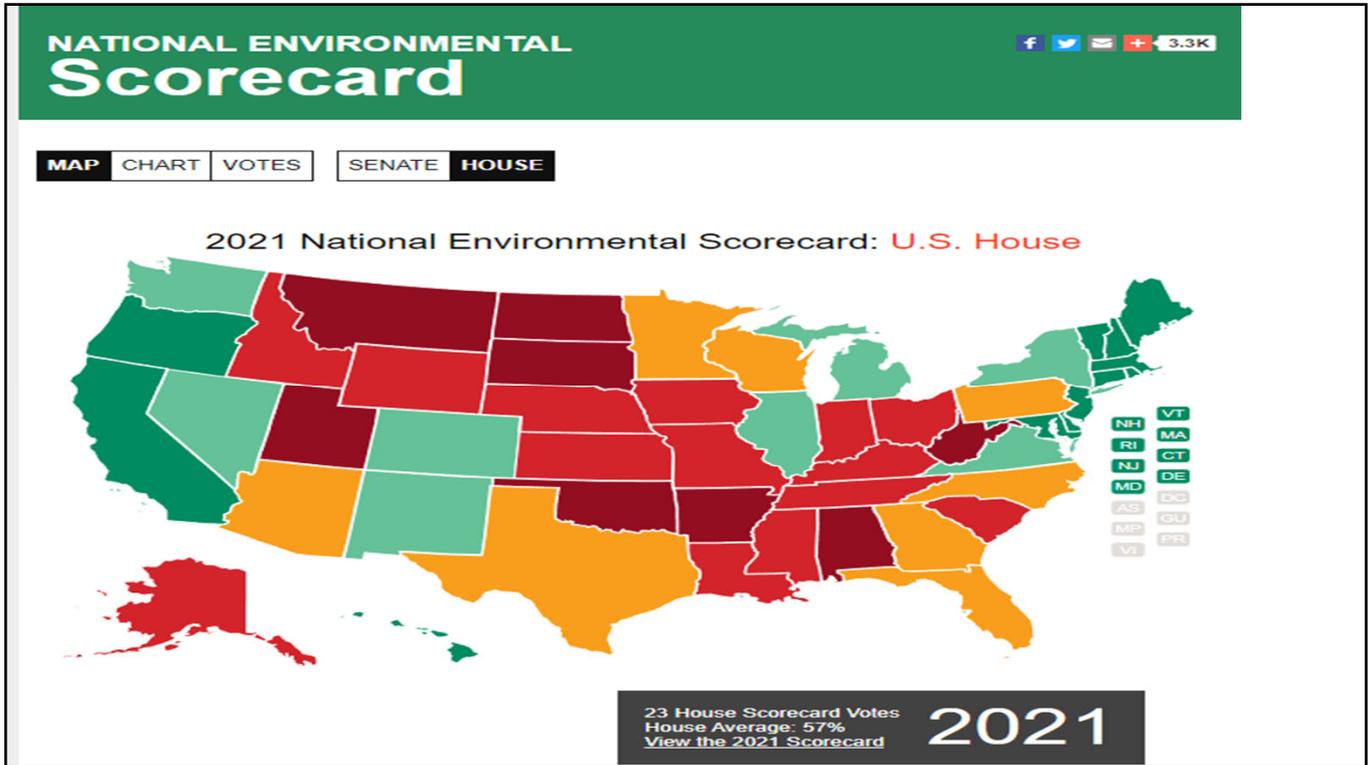
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CALIFORNIA POLICY



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Only Selected Topics Today

- Climate Change
- Air Quality
- Hazardous Waste
- Hazardous Materials
- Green Chemistry
- Water Quality
- Sustainability
- Health & Safety
- Enforcement
- Forecast

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Decarbonizing California

- Reduce GHG emissions:
 - §40% below 1990 levels by 2030
 - §80% below 1990 levels by 2050
- Carbon neutral by 2035 (Now 2045)
- 60% Renewable energy by 2030
- 100% Renewable energy by 2045
- 1.5 million ZEVs by 2025, 5 million ZEVs by 2030
- 100% EV by 2035
- 50% of all trucks sold must be EV by 2035
- Half petroleum use by 2030
- 100% electric appliances by 2030/2035

Newsom Executive Orders

- ❖ Phasing out hydraulic fracking
- ❖ CA must:
 - Stop issuing hydraulic fracking permits by 2024
 - End all fossil-fuel drilling by 2045
 - Pending SB 467 would ban offshore oil drilling
- ❖ Conserving 30% of land & coastal water by 2030: To offset loss of biodiversity
- ❖ Storing Storm Flood Water: Making it easier for water suppliers and farmers to divert water, temporarily suspending regulations including CEQA reviews allowing users to divert without water rights permits.

Budget Windfall

- Historic one-time \$54 billion budget investment in climate:
 - Sea Level Rise
 - Wildfire Mitigation
 - Extreme Heat
 - Drought
- \$3.25 Billion in EV charging infrastructure and vehicle/school bus purchasing incentives
- \$970 million for solar & energy storage investments
- \$1.4 billion for natural & working lands carbon investments

Climate Solutions Revolution

- **Newsom's \$22.5 B Budget (over 5years) addressing Climate:**
 - Lithium Capital of the World in "Lithium Valley"
 - Zero-emission vehicles & clean transportation & energy
 - Establish an equitable "global model" for the world:
 - Training community health workers in "climate health", "health-resilience planning" & health/disease monitoring and air quality monitoring
 - Climate resilience (forest & wildfire, "nature-based" solutions for extreme heat, coastal resilience & community resilience).

Climate/Grid Funding

- AB 205 (Trailer Bill) Funds for demand side grid support.
 - Financial incentives for energy storage projects (at least 8 hours continuous discharge to grid)
 - CEC consolidated, expedited Opt In permitting for clean energy & storage projects
 - Overrides other state & local permitting
 - Except Coastal Commission & BCDC permits
 - Must meet Environmental Leadership criteria
 - It also has the language for strategic reserve and opt in permitting.
- AB 178 (Budget Bill) - funding for strategic reserve & long duration storage
- AB 179 (Budget Bill) - funding for industrial grid support & decarb
- AB 180 (budget Bill) - funding for strategic reserve & electricity back up assets

Newsom's 5 Pillars

- I. Advance Clean Electricity Targets: SB 120 (failed passage)
- II. Protecting communities from impacts of the oil wells: SB1137
- III. Advancing natural and engineered technologies to remove carbon:
 - SB 905
 - SB 1314
 - AB 1757
- IV. Codifying statewide 2045 carbon neutrality goal: AB 1279
- V. Accelerate 2030 GHG Emission Reduction Goals: AB 2133 Would have Increased California's GHG emission reduction target from 40% below 1990 level to 55% below that level.

Promoting Carbon Capture, Removal, Utilization &

SB 905 requires ARB to develop/implement regulatory framework to streamline safe deployment of Carbon Capture, Removal, Utilization & Sequestration technologies.

- Prohibits injecting concentrated CO2 fluid produced by a CO2 project for enhanced oil recovery in SDWA Class II well
- State Geologist to monitor seismic activity or leakage from a CO2 to help ensure public health & environmental safety
- ARB to monitor & mitigate air emissions from CO2 project

SB 1314: Prohibits injecting concentrated CO2 fluid from a CO2 capture or CO2 capture & sequestration project from use as an injection fluid for enhanced oil recovery

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2045 Carbon Neutrality Target

CA Climate Crisis Act

- AB 1279 codifies Governor's EO setting new ambitious goal of 85% GHG emissions reduction by 2045 (1990 baseline), which would be one of the most ambitious reduction-specific goals in the world.
- ARB's scoping plan strategies must remove, capture, & store carbon

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2022 Scoping Plan

Focus on achieving Carbon Neutrality by 2045 (as per AB 1279)

- Expected to reduce demand for liquid petroleum fuels by 94%, & reduce GHG by 89 from oil/gas extraction by 2045
- **Carbon Sequestration strategies:**
 - Carbon Capture
 - Natural & Working Lands
 - CO2 Removal (Direct Air Capture)
- **Key Sectors:**
 - Transportation Sustainability
 - Clean Electricity Grid
 - Sustainable Manufacturing & Buildings
 - CO2 Removal
 - Short-lived Climate Pollutants
 - Natural & Working Lands

2022 Scoping Plan

- **Transportation Targets:**
 - Reduce VMT per capital 25% below 2019 levels by 2030 & 30% by 2045
 - All new medium & heavy-duty truck sales must be ZEV by 2040
 - 20% aviation fuel means must be met by electricity or hydrogen by 2045
 - Most ocean-going vessels must use shore power by 2027 (25% must use hydrogen fuel cell technology by 2045)
 - All cargo handling port equipment must be zero-emission by 2037
 - All drayage trucks must be zero emission by 2035
 - 100% passenger & locomotive sales must be zero emission by 2030

Scoping Plan 2022

- New residential buildings must have electric appliances by 2026 & commercial buildings by 2029
- Must retire all combined heat and power facilities by 2040

Oil & Gas Well Buffers

SB 1137

- Senator Gonzalez: ~ 5.5 million Californians live within one mile of oil & gas wells
- Over 2 million Californians living within 3,200 ft. of an existing oil well
- Mandates 3,200-ft. health & safety buffer zone between new & reworked oil and gas wells and sensitive land uses (i.e., schools, childcare centers, community resource centers, residential homes and live-in housing, and hospitals).
- Oil & gas facility operators in protection zones must implement strict air & water pollution controls & develop response plans

Specific Climate Targets

- ❖ **ZEVs:** 100% ZEVs by 2030/2035
- ❖ **Appliances:** 100% electric appliances by 2030/2035

• **Source:** Achieving Carbon Neutrality in CA PATHWAYS Scenarios Developed for the CA ARB

Sea Level Rise Mitigation & Adaptation Act

- Sea level projected to rise 7 feet by 2100
- ~ 2/3s of the state's residents live in coastal counties
- LAO further states that waiting too long to initiate adaption efforts likely will cost the state and its economy new billions of dollars.
- SB 1: First comprehensive sea level rise program to prepare for sea level rise:
 - **Assess & mitigate sea level rise:** Directs the California Coastal Commission to take into account sea level rise in coastal planning, development, & mitigation efforts
 - Assist local governments and communities in response

Natural & Working Lands Climate Smart Strategy

- **AB 2278 Land Conservation Target:** Establishes priorities for the implementation of the 30x30 conservation goal established in Executive Order N-82-20 and requires an annual report to the Legislature on progress made toward achieving this goal.
- **AB 1757** Requires ARB, with NRA, CalEPA, and CDFA, to determine an ambitious range of targets for natural carbon sequestration, & for nature-based climate solutions, that reduce GHGs for 2030, 2038, and 2045 to support state goals to achieve carbon neutrality & foster climate adaptation and resilience.
- **SB 27** addresses concerns about negative emission technologies (NETs) that arguably prolong the use of polluting technologies
 - SB 27 establishes Carbon Sequestration & Resilience and Project Registry:
 - To maintain list of eligible but unfunded projects, which then may be funded to mitigate GHG emissions
 - Maximizes carbon capture in soil, grasslands, farmland, wetlands, forests
 - Prohibits registry projects from offsetting emission reduction obligations or being involved in market-based compliance mechanisms,
 - Requires ARB to add carbon sequestration targets to the state's climate change scoping plan.

Climate, Adaptation & Resiliency

SB 852: Allows cities & counties to create climate resilience districts and provides these new districts various financing powers

Electric Vehicles & Infrastructure

AB 970: Sets permit approval time frames & reduces the number of required parking spaces to accommodate the EV charging stations

AB 1236: Local government must administratively approve an applications for EV charging stations via building permit or similar nondiscretionary permit

Review is limited to the building official's review of whether it meets all health and safety requirements

SB 1291 Establishes expedited local agency approval of hydrogen fueling incorporating identical approach as AB 1236 for EV permitting



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ARB's Advanced Clean Truck Rule:

- Beginning 2024, Automakers must sell a minimum number of zero-emission big rigs, delivery vans, and large pickups weighing more than 8,500 lbs.)
- By 2035, most new trucks in California will be zero emission



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Smog Check for Heavy-duty Diesel Trucks

Smog check program for heavy-duty diesel trucks

- Beginning in 2023:
- Biannual emissions testing
- Registration blocked upon failure
 - Quarterly testing for trucks with on-board diagnostic systems
 - Out-of-state trucks required certificates demonstrating compliance.

Electrification of Off-road Engines

- **AB 1346:** Requires zero emissions for small off-road engines (SORE)
- **What's covered:** Spark-ignition engines rated at or below 19 kilowatts. Engines in this category are used in lawn and garden equipment as well as other outdoor power equipment and specialty vehicles.
- **Schedule:**
 - Small off-road engines Lawn & other outdoor equipment (2024)
 - New portable generators & specified commercial pressure washers (by 2028)
 - Remote emissions monitoring devices to be used to ID high-emitting vehicles subject to follow-up compliance testing



Energy Reliability & Safety

SB 846

- Extends Diablo Power Plant Operation beyond 2024 for up to 2030
- Expedited permitting to facilitate relicensing
- **SB 884** Expedited utility distribution infrastructure undergrounding program



Hazardous Waste Developments



DTSC Reform

❖ SB 158 Designed to:

- Review & monitor DTSC's strategic plan and reorganization
- Audit remediation cost recovery
- Add personnel to improve permit backlogs and business operations
- Improve enforcement.
-
- ❖ Funding closes historical structural budgetary deficits impacting programs and activities.
- ❖ Establishes a 5-member Board of Environmental Safety within the agency authorized to:
 - Review and approve annual priorities & adopt performance metrics
 - Develop long-term goals for DTSC's programs
 - Address appeals of DTSC hazardous waste facility permit decisions
 - Offer public hearings on DTSC's permit and remediation decisions
 - Evaluate the agency fee structure annually aligning charges for HWCA and TSCA
 - Develop recommendations to improve coordination between programs & reduce or eliminate duplication/overlap.

Hazardous Waste Generator Improvements Rule

-
- Major overhaul of RCRA
 - Took effect May 2017
 - Major Changes:
 - Reorganization of 40 CFR 262
 - Expanded Emergency Preparedness Requirements
 - Bolstered rules for Biennial Reporting
 - Relief for Episodic generation events impacting generator status
 - New Marking/labeling requirements for HW tanks & containers
 - California must adopt rule by 7/1/19

Generator Improvement Rule State Delegation

AB 698:

- ❖ Updates terms within the California Hazardous Waste Control Law to conform to recent changes in federal hazardous waste regulation promulgated by the EPA under GIR.
- ❖ Replaces the terms “CESQG” with “very small quantity generator” / “VSQG”
- ❖ Recasts provisions regarding the amount of hazardous waste and which hazardous wastes are included in, or excluded from, that calculation.
- ❖ **Labeling:**
 - “Episodic Hazardous Waste”
 - Indicate hazards (i.e., ignitable, corrosive, reactive, or toxic)
 - Date: Episodic event began
 - Accumulation: Up to 60 days
 - Manifest required for off-site shipments Records:
 - Beginning & ending dates of episodic event
 - Description of episodic event
 - Types and quantities of HW generated during event
 - Description of fate of HW managed
 - Name of transporter
 - EPA approval letter (as appropriate)

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Generator Improvement Rule Monthly Thresholds

- **Large Quantity Generators**
 - > or = 1,000 kg/mo. of non-acute HW
 - >=1 kg/mo. of acute HW
 - >= 100 kg clean-up residues of acute HW
- **Small Quantity Generators**
 - 100 to 1,000 kg/mo. of non-acute HW
 - < or =1 kg/mo. acute HW
 - < or = 100 kg/mo. clean-up residues of acute HW
 - Note: Accumulation of 6,000 kg at any one time requires a one-year storage permit
- **Very Small Quantity Generators**
 - < or = 100 kg/mo. non-acute HW (Recognized as SQG under CA law)
 - < or =1 kg/mo. acute HW
 - < or = 100 kg/mo. clean-up residues of acute HW

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TSDF Permit Clarifications

- ❖ TSDF permits, including a standardized permits, must be for a fixed term,
 - Not to exceed 10 years
 - Regardless of the type of hazardous waste facility.
- ❖ Provides for the extension of an existing hazardous waste facilities permit or standardized permit if owner or operator of the hazardous waste facility submits renewal Part A & Part B application before expiration the application is deemed complete.
- ❖ Deemed extended until DTSC approves the renewal application and a new permit is effective or the department denies the permit renewal application and all parties have exhausted all applicable rights of appeal.
- ❖ TSDF permits expiring before 1/1/ 2025, seeking to renew the permit to submit a Part A and Part B application to DTSC at least 180 days before the end of the permit's fixed term.

TSDF Permit Clarifications

- ❖ Within 90 days of receiving TSDF application (including a standardized permit), DTSC must provide a timeline with process milestones
- ❖ If DTSC fails to make a timely decision,, it must issue a public report with an explanation & a proposed schedule for issuing permit decision
- ❖ DTSC prohibited from issuing permit unless TSDF owner or operator establishes and maintains financial assurances for the costs of corrective action, closure, and post-closure
- ❖ DTSC must request cost estimate from TSDF owner or operator for corrective actions involving releases and require entering into a schedule of compliance for assurances of financial responsibility for completing the corrective action.

Treated Waste Wood

- ❖ AB 332 permanently authorizes TWW to be managed under alternative management standards instead of managed as hazardous waste.
- ❖ Variances granted by DTSC before AB 332 are inoperative
- ❖ **Storage of TWW in “normal course of business”:** off ground (on blocks, concrete surfaces, or containers):
 - Store up to 90 days (block and tarp)
 - Store up to 180 days (containment pad)
 - Store up to 1 year (container and storage building)
- ❖ Cover during inclement weather
- ❖ Accumulate away from public access
- ❖ Do not burn
- ❖ Segregate from other wastes

Revised the Mercury Thermostat Collection

AB 707 requires thermostat manufacturers to:

- Fully fund program costs to collect, transport, & recycle mercury thermostats including education and outreach campaign
- Develop & implement a convenient, cost-effective, and efficient program for the collection, transportation, recycling, & disposal of out-of-service mercury-added thermostats.
- Collection locations must be convenient & accessible statewide, including in rural, disadvantaged, & low-income communities.

Consolidated Manifesting Retail Hazardous Waste

- **AB 2920** Retail hazardous waste eligible for consolidated manifesting for California-only HW (i.e., unsold consumer products in its original retail sales packaging that is determined by the retailer to be a hazardous waste).
- **Original list:** household bleach/cleaning products, light bulbs, pool chemicals, laundry detergent, cat litter, potting soil, and fertilizers, used oil, brake fluid, antifreeze, "paint-related" wastes, and drycleaning solvents.
- Waste streams no longer have to individually listed on the manifest and in its own container, saving extra vehicle
- ****Under consolidated manifesting procedures, the generator is exempt from filling out a hazardous waste manifest, and instead the transporter completes both the generator and transporter section of the manifest.**

Hazardous Materials Developments



Battery Recycling

SB 1215 & AB 2440:

- Responds to an estimated 75-92% of lithium-ion batteries are disposed of improperly.
- Adds battery-embedded products to the Electric Waste Recycling Act
- CalRecycle, in collaboration with DTSC, to establish more than one covered electronic waste recycling fee for covered battery-embedded products based on categories of those products.

PFAS Prohibitions

AB 652

- ❖ Prohibits the sale or distribution any juvenile products containing PFAS, on or after July 1, 2023
- ❖ Manufacturers must use the least toxic alternative when replacing PFAS chemicals in a juvenile product

AB 1200

- ❖ Prohibits selling food packaging containing PFAS beginning 1/1/23
- ❖ Cookware manufacturers must label product if it contains an intentionally added chemical on specified lists (1/1/24)
- ❖ Manufacturers must use the least toxic alternative when replacing PFAS chemicals for cookware

Ban on Fire Fighting Foams with PFAS

SB 1044 bans firefighting foam from containing per- and polyfluoroalkyl substances (PFAS)

California Safe Cosmetics Act

- SB 312 closes “loopholes” that allow chemicals in personal care and cosmetics products to be categorized as “fragrance”
- Fragrance chemicals can be found in more than 95% of shampoos, conditioners, hair styling products, antiperspirants and shaving products as well as fine fragrances, body spray and lotions, and 1/3 of the fragrance chemicals currently in use have been linked to negative health impacts ranging from allergic reactions to reproductive harm and increased risk of breast cancer.
- Cosmetic manufacturers, by January 1, 2022, must disclose product information to DPH re cosmetic products containing a fragrance ingredient or flavor ingredient
- Agencies must post on database associated health hazards.

Cosmetics Product Safety

Prior Law: FDA and CA DPH did not require premarket safety testing, review, or approval of cosmetic products.

- **AB 2762** bans a list of specified ingredients from cosmetics products consistent with the European Union's (EU) Annex II of regulation No 1223/2009 including carcinogens, reproductive toxicants, and endocrine disruptors
- Prohibits, beginning January 1, 2025, the manufacture, sale, delivery, holding, or offering for sale in commerce of any cosmetic product containing specified intentionally added ingredients.

Chemical Releases

AB 480 authorizes UPAs & CUPAs to respond to HW releases it "reasonably determines poses an imminent and substantial endangerment to public health"

- **Prior:** CUPAs needed to persuade a local district attorney to go to court to seek an injunction against the offending business, even while the dangerous conditions persist.
- **Note:** Recent incidents involved releases of hexavalent chrome in Paramount and Long Beach, a large fire and magnesium release in Maywood and releases from a chemical facility in Richmond
- ❖ Clarifies that "unregulated" facilities must report a release "upon discovery of an actual release resulting in an emergency response"

Ignitable Metals Disclosure

AB 1689: Combustible metals or alloys must be listed on a HMBP

- **Premised on Metal Recycling facility:**

- Fire fighters sprayed water aggravating fire
- Unaware of the presence of magnesium & caused an explosion
- Authorizes DTSC to compel electronic submissions

EPCRA TRI Reporting

-
- ❖ Per- and polyfluoroalkyl substances (PFAS) added to Toxic Release Inventory under the Emergency Planning & Community Right to Know Act
 - ❖ Includes 172 PFAS chemicals
 - ❖ Facilities that manufacture, process or use 100 lbs. or more of PFAs chemicals must report by 7/1/21 for all of 2020 activity

40 CFR 372.29

Increases CalARP Penalties

AB 3138 increases civil or administrative liability for violations of the California Accidental Release Prevention program (CalARP) violations

- ❖ From \$2,000 to \$5,000 for each day in which the violation occurs
- ❖ Not more than \$25,000 for each day in which the violation occurs involving knowing violation after reasonable notice of the violation.

Pipeline & Hazardous Materials Safety Rules

-
- ❖ Changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements
 - ❖ Amends Hazardous Materials Table (Section 172.1010)
 - ❖ Classification system for articles containing hazardous materials without a proper shipping name.
 - ❖ Regulates hazardous materials residues present in articles
 - ❖ Lithium battery shipping requirements Corrosive mixture packing requirements

California Hazardous Substances/Cleanup



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Sea-Level Rise & Site Cleanup

- DTSC draft guidance assessing vulnerabilities of contaminated site to sea level
- Recommends approaches to evaluate climate resilience for remedy selections
- Requires Vulnerability Assessments for each stage of remediation process to evaluate resilience of the remedy
- Phased construction of remedies must include 30 years of protection against sea level rise.
- Could require an Adaption Plan

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Remediation Oversight

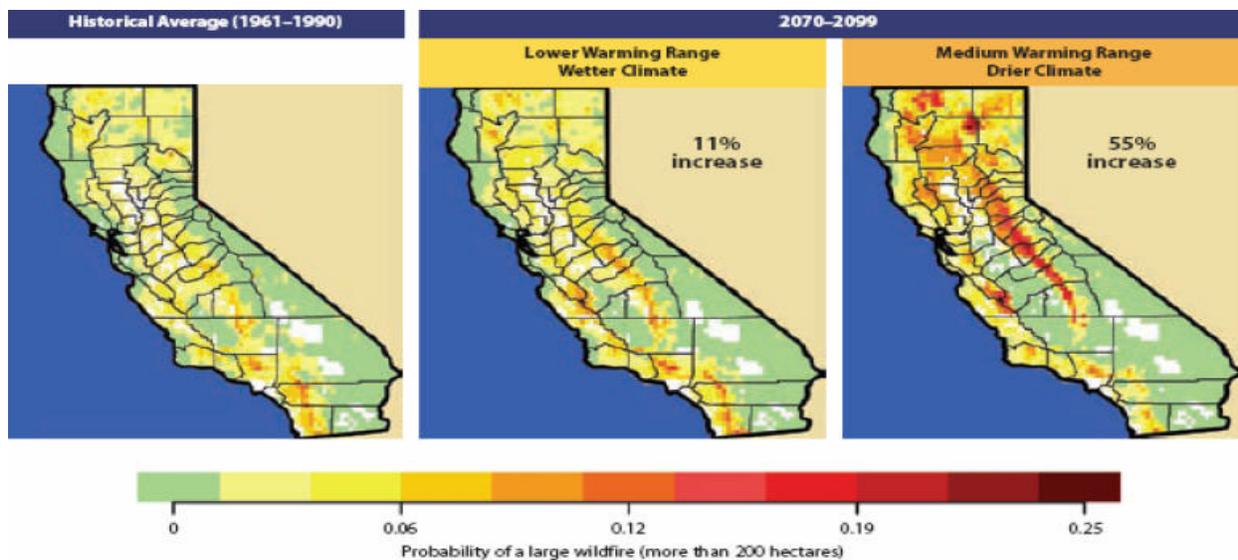
AB 304

- ❖ Strengthens oversight of cleanups overseen by local health officers helping ensure they have the necessary expertise, knowledge, & resources to carry out remediation responsibilities to protect public health.
- ❖ Requires local health officers to conduct a public notification process & provide documents outlining the remedial action & certification of cleanup goals to the responsible party and to the public via GeoTracker.
- ❖ Setting certain requirements for local health officers overseeing contaminated site cleanup including electronic reporting, public notification, & written notice to DTSC & SWRCB detailing technical resources available for the cleanup.

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Climate Change & Wildfire Risk



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Wildfire Management

- **SB 896:** Incentivizes and improves defensible space assessments, among other things
- **SB 926:** Establishes the Prescribed Fire Liability Pilot Program to increase the pace and scale of prescribed fires
- **AB 522:** Extends the sunset of the Forest Fire Prevention time harvest plan exemption

California Solid Waste Developments



Extended Producer Responsibility

SB 54

- The Plastic Pollution Prevention and Packaging Producer Responsibility Act Major EPR program for single use plastics with extended producer responsibility model step by significantly reducing California’s reliance on single-use packaging and products.
- Covers certain single-use packaging & plastic single-use food service ware & requires producers, through a producer responsibility organization, to
 - Source reduce plastic covered material,
 - Ensure covered material sold, offered for sale, distributed, or imported after January 1, 2032, is recyclable or compostable,
 - Ensure that plastic covered material offered for sale, distributed, or imported in or into the state meets specified recycling rates.

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Solid Waste & Recycling

SB 343

- ❖ Tightens the requirements around the permissible use of the “chasing arrows” recycling symbol and when claims regarding recyclability
- ❖ CalRecycle must publish the types and forms of recyclable products and packaging
- ❖ Greenwashing: Adds symbols & language associated with recycling, which are often associated with being eco-friendly, to the list of labels that are specifically regulated

AB 881 reclassifies the export of mixed plastic waste as disposal, while allowing truly recyclable plastic to continue to be counted towards our recycling goals.

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Solid Waste & Composting

AB 1201

- ❖ Updates California's environmental advertising laws regarding independent, third-party certification of compliance with degradability requirements
- ❖ Prohibits products with PFAS ("forever chemicals") from being labeled as compostable.
- ❖ CalRecycle must develop labeling requirements for compostable products to ensure that they are readily identifiable by both consumers and composting facilities

Plastic Bottle Minimum Recycled Content

- ❖ AB 793 sets a minimum recycled content standard for plastic bottles in California.
- ❖ Requires producers of plastic beverage containers to incorporate postconsumer recycled content
- ❖ Requires the total number of plastic beverage containers to contain, on average, no less than 50% postconsumer recycled plastic content per year on and after January 1, 2030

Solid Waste Management

AB 1857 (C. Garcia): Incineration \neq recycling (for local jurisdiction diversion requirements)

Water Quality/Supply Developments



Treaty Protecting Ocean's Biodiversity

- Governs the international water, past the 200-mile jurisdiction of countries establishing marine protections
- Subject to ratification by 190 countries

Water Efficiency

SB 1157 (Hertzberg)

- **Prior Law:** 52.5 gallons per capital daily (GPCD) by 2025 & 50 GPCD by 2030
- Current median water use of 48 GPCD is well below the 2020 standard in statute.
- Changes the standards for indoor residential water use beginning 2025 to:
 - 47 gallons per capita daily beginning 2030 to 42 GPCD

Increases penalties for oil spills

- **AB 3214** responds to the largest oil spill California in over 25 years doubles maximum and minimum criminal penalties for companies that knowingly spill oil into state waters.
- Plains All American Pipeline was convicted of one felony and eight misdemeanors for failing to maintain the pipeline along with mishandling the response to the spill.
- Paid a ~\$3 million

“Waters of the United States”

- Revamped, more streamlined Obama “Significant Nexus” Rule in determining whether wetlands “adjacent” to jurisdiction waters are subject to CWA jurisdiction
 - New Rule removed several agricultural exemptions
- Replaces narrower Trump-era Rule
- Subject to case-by-case analysis to determine whether jurisdictional
- Seeks to clarify the Rapanos decision, which left confusion as to which waters fell under the government jurisdiction
- SCOTUS entertaining “significant nexus” test in *Sackett*



Wildlife Connectivity

AB 2344

- 20K deer vehicle collisions annually
- Establishes the Transportation Wildlife Connectivity Remediation Program at Caltrans
- Requires Caltrans to identify areas with high rates of wildlife-vehicle collisions & implement priority projects that improve connectivity with passage features like overpasses, underpasses and directional fencing.

Housing Legislation: YIMBY vs. NIMBY

Recent YIMBY legislation past few years

- | | |
|------------|-----------|
| • AB 2973: | • AB 3194 |
| • AB 2132: | • AB 1771 |
| • AB 2923 | • AB 2753 |
| • AB 2132 | • AB 2372 |
| • SB 850 | • SB 828 |
| • SB 167 | |

YIMBY

Middle Class Housing Act of 2022

- Permits housing development projects located within Office or Retail zones
- Must comply with density, public notice, comment, hearing, or other procedures, site location and size, & be consistent with sustainable community strategy or alternative plans, prevailing wage, and a skilled and trained workforce.

Affordable Housing & High Road Jobs Act of 2022

AB 2011: Creates ministerial, streamlined approval process for 100% affordable housing projects & mixed income housing projects along commercial corridors

- Except in specified environmentally-sensitive areas
- Imposes specified labor standards including requirements that contractors pay prevailing wages

Looking forward...



Budge Deficit Driving Policy

- Budget crisis will greatly constrain what the legislature passes
- Rainy day fund is intact
- Biggest hit so far is climate and energy and environmental programs for outyear funding.
- Focus on legislative oversight of Newsom to protect progress OR This year: focus on implementation and focusing resources
- If programs are not working well, move that money for programs that are worthy
- Natural resources bond to backfill proposed Newsom cuts
- SB 638 and AB 867 Climate Resiliency and flood protection
- May expand regulatory fees like AB 8 (reauthorized specified fees) like in 2003 and 2004 i.e., fee based funding for programs

Hazardous Waste Pending Legislation 2023

- CUPA technical language cleanup
- Exploring with DTSC whether to stop HW shipping out of state
- **Solar panels**: Develop alternative management requirements similar to Treated Waste Wood
- **EV batteries** : Develop alternative management requirements as they Otherwise HW
- Microparticles bill coming (similar with EU)
- DTSC reform Follow UP: Big picture master plan HW Management Plan finally being developed! Not completed in 3 decades since DTSC broke from DPH

Pending Hazardous Materials Legislation 2023

- AB 418 chemicals in food/ banning chemicals from being used in food e.g., Red Dye etc. following EU ban
- AB 496 would add 26 new chemicals to state list March 14 hearing (following EU list and hazard risks, carcinogenic, reproductive risks used to screen for the 26 banned chemicals)

Pending Water Quality Legislation 2023

- Streamline water storage and flood management with possible CEQA streamlining or judicial review streamlining
- SB 23 SWRCB speed up timelines to issue flood management and water supply projects Ashby: GW recharge of 10 M acre feet annually
- SB 689: SWRCB to determine if pre 1914 water holders have their water rights
- Water/Flood/Drought: focus on funding for flood protection and water supply reliability
- General obligation bond measure for 2024 November so if Governor will not fund in General Fund:
- AB 249 drinking water in schools that required PWS to test water to faucets at school. New bill requires PWS to test all potable drinking water systems for school buildings older than 2010
- AB 460 Water Rights: I Authorize SWRCB to intervene as soon as there is a water rights violation providing "interim relief" action like TRO (gives admin agency authority (admin hearing officer entertains) like the court has) before a hearing and significantly increase penalties from \$500 to \$10K/day and \$5k per acre foot diverted

Pending Wildfire Legislation 2023

- ❖ SB 1062 Fire Storage Act would address fire suppression equipment
- ❖ SB 926 would address insurance risk barriers to prescribed fires
- ❖ AB 2005: Would establish wildfire forest resiliency plan task force to thin forest to prevent fires and fuel load reduction

Pending Climate Change Legislation 2023

- AB 9 follow up from one of Climate pillars/the only bill that did not to codify interim goals 55% below by 2030 (?)
- SB 253 Weiner Climate data corporate accountability act (SVLG opposed) disclose scope 1 -3 emissions (scope 3 indirect supply chain wastewater issues etc.) is controversial and must be verified by ARB approved auditor. Killed by moderate democrats last year
- SB 252 Public Retirement system and STIRS not making new investments in fossil fuel companies and to divest current investments
- SB 261 Stern: climate related financial risk (\$500M annual revenue) prepare annual reports of climate related financial risk OPR oversees

Big Year for CEQA Reform

- SB 23 Permit streamlining for water projects
- AB 340 CEQA: Grounds for noncompliance.
- AB 356 CEQA: aesthetic impacts.
- AB 692 CEQA exemption: egress route projects: fire safety.
- AB 930 Local government: Reinvestment in Infrastructure for a Sustainable and Equitable California (RISE) districts.
- AB 1152 CEQA: exemption: recycled water.

More CEQA Bills

- AB 1152 CEQA: exemption: recycled water.
- AB 1318 CEQA: exemption: residential projects.
- AB 1335 Local government: transportation planning and land use: sustainable communities strategy.
- AB 1488 CEQA water conveyance or storage projects: judicial review.
- AB 1532 Office conversion projects.
- AB 1554 CEQA: exemption: wildfire fuels reduction projects.
- AB 1633 Housing Accountability Act: disapprovals: California Environmental Quality Act.
- AB 1700 CEQA: population growth and noise impacts: housing projects.

More CEQA Bills

- AB 1318 CEQA: exemption: residential projects.
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Environmental Law NEWS

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THE 2021 ENVIRONMENTAL LEGISLATIVE UPDATE: A RETURN TO NORMALCY



Written by Gary A. Lucks

INTRODUCTION

As the 2021 legislative session began, the democratically controlled California legislature welcomed a more politically aligned federal administration and a more environmentally friendly U.S. Environmental Protection Agency. California's 2021 legislative session was characterized by a return to a level of normalcy, setting aside the unusual mid-term effort to recall Governor Newsom. Governor Newsom resoundingly beat back the challenge despite the sour mood of the electorate, which was driven by the pandemic and another disruptive fire season.

The interminable quarrels that plagued the California legislature during the last legislative session gave way to a more typical legislative outcome in 2021, with a total of 2,369 new laws introduced and 836 landing on the Governor's desk—twice as many as the prior legislative session. The governor approved 99% of the environmental bills including major reform at the Department of Toxic Substances Control (DTSC) significant modifications to the hazardous waste generator requirements, reorganizing the program to collect mercury-containing thermostats, perfluorinated or polyfluorinated substances (PFAS) restrictions, and "truth in advertising" relating to green claims. The governor additionally signed a package of

YIMBY (Yes in My Back Yard) laws making it easier to up zone land uses to generate more housing in California. Finally, the legislature delivered new laws designed to advance offshore wind (OSW), electrify off-road engine equipment, elevate penalties for health and safety violations, streamline local permitting of electric vehicle charging infrastructure, and authorize water agencies to capture and treat stormwater. Except for budget-related urgency laws that passed by a supermajority (which took effect on the date of signing), the enacted laws became effective on January 1, 2022.

REVIEW OF LEGISLATION

HAZARDOUS WASTE

For years, an embattled DTSC has faced criticism from the non-governmental organization (NGO) community, claiming it was too closely tied to industry and failed to protect the public from exposure to hazardous materials and waste. Conversely, the regulated community has alleged that DTSC has been overly strict and burdensome, and responsible for permit backlogs for treatment, storage and disposal facilities (TSDFs).

In an attempt to reform the agency, the legislature created an independent review panel which, in 2018, completed a three-year



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